

AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 793**

---

**Introduced by Senator Lara**

February 22, 2013

---

An act to ~~amend~~ *add* Section ~~43013~~ of 39633 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 793, as amended, Lara. Air pollution: *oceangoing vessels*.

*Existing law regulates air emissions from cruise ship engines and oceangoing ship engines. Regulations of the State Air Resources Board limit the time during which auxiliary diesel engines of container vessels, passenger vessels, and refrigerated cargo vessels are operated while those vessels are docked at berth at a California port.*

*This bill would deem an oceangoing vessel, as defined, that meets specified requirements to have met the limitations on hours of operation of auxiliary diesel engines while at berth for that vessel visit. The bill would require an oceangoing vessel that is equipped to receive shore power to conduct the testing and inspection necessary to validate the safety of utilizing the shore power equipment during its current and future visits to that berth upon each initial visit by that vessel to specified marine terminals. The bill would require an oceangoing vessel that exceeds specified hours of service limitations because the testing and safety inspections of the equipment on the vessel that allows the use of electricity from the terminal have not validated the safety of the equipment to be subject to these provisions under specified circumstances.*

~~Existing law requires the State Air Resources Board to adopt standards and regulations for motor vehicles, off-road or nonvehicle engine~~

categories, and portable fuel containers and spouts, in order to control the emissions of air contaminants.

~~This bill would make nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. The Legislature finds and declares all of the*  
2     *following:*

3     *(a) The state has adopted the world's most comprehensive*  
4     *regulation of air emissions from vessels while at berth and on*  
5     *January 1, 2014, will lead a pioneering effort to utilize onshore*  
6     *power at various ports throughout the state.*

7     *(b) Safe and successful implementation of the state's at-berth*  
8     *regulations will provide significant improvements in air quality*  
9     *resulting from the reduction of air emissions from oceangoing*  
10    *vessels.*

11    *(c) Compliance with these at-berth regulations has and will*  
12    *continue to require extensive and multibillion dollar capital*  
13    *investments in shore power infrastructure both onshore, by marine*  
14    *terminals, ports, and electric utilities, and onboard numerous*  
15    *oceangoing vessels, including container, cruise, and refrigerated*  
16    *ships.*

17    *(d) Given the lack of international standards that govern the*  
18    *modification of vessels for shore power, requirements for new*  
19    *vessel construction, shoreside installation of shore power, and the*  
20    *provision of shore power to vessels, vessels that are initially*  
21    *attempting to comply with the regulations must test and validate*  
22    *shoreside power interactions in order to certify those connections*  
23    *as safe and successful.*

24    *(e) To facilitate compliance with the at-berth regulations, all*  
25    *vessels that have completed all of the retrofits, improvements, or*  
26    *equipment modifications necessary to comply with the rules and*  
27    *that visit a terminal that also has been properly outfitted with a*  
28    *shore power installation must be afforded the opportunity to*  
29    *successfully test their equipment and establish a safe interface*  
30    *between the vessel and the shoreside equipment.*

31    *(f) Vessels that attempt to comply with the state's at-berth*  
32    *regulations in good faith should avoid the application of penalties*

1 *in the case of exigent circumstances and should be allowed to*  
2 *make the adjustments and calibrations necessary to be certified*  
3 *as safe and successful as soon as possible.*

4 SEC. 2. Section 39633 is added to the Health and Safety Code,  
5 to read:

6 39633. (a) For purposes of this section, “oceangoing vessel”  
7 means a commercial, government, or military vessel meeting any  
8 one of the following:

9 (1) A vessel greater than or equal to 400 feet in overall length  
10 as defined in Section 679.2 of Title 50 of the Code of Federal  
11 Regulations, as adopted June 19, 1996.

12 (2) A vessel greater than or equal to 10,000 gross tons pursuant  
13 to the convention measurement as defined in Sections 69.51 to  
14 69.61, inclusive, of Title 46 of the Code of Federal Regulations,  
15 as adopted September 12, 1989.

16 (3) A vessel propelled by a marine compression ignition engine  
17 with a per-cylinder displacement of greater than or equal to 30  
18 liters.

19 (b) It is the intent of the Legislature in enacting this section to  
20 encourage full compliance with Section 93118.3 of Subchapter  
21 7.5 of Chapter 1 of Division 3 of Title 17 of the California Code  
22 of Regulations for oceangoing vessels in a manner that avoids any  
23 situation that threatens the safety of any vessel, the vessel’s crew,  
24 cargo, or equipment, or any personnel, equipment, or cargo on a  
25 marine terminal that may arise from an event beyond the control  
26 of the master of a vessel that is attempting to certify its ability to  
27 safely utilize shore power.

28 (c) (1) An oceangoing vessel that meets the requirements of  
29 this section shall be deemed to have met the limitations on hours  
30 of operation of auxiliary diesel engines while at berth for that  
31 vessel visit.

32 (2) All visits made pursuant to this section shall be counted  
33 toward compliance with the minimum-visit requirements of the  
34 vessel’s fleet and the onboard auxiliary generation associated with  
35 each visit made pursuant to this section shall be excluded from  
36 the vessel’s fleet’s power reduction calculations.

37 (d) Upon each initial visit by an oceangoing vessel that is  
38 equipped to receive shore power to a marine terminal with a berth  
39 equipped to provide compatible shore power, the vessel shall  
40 conduct the testing and inspection necessary to validate the safety

1 of utilizing the shore power equipment during its current and future  
2 visits to that berth.

3 (e) An oceangoing vessel that exceeds the hours of service  
4 limitations under Section 93118.3 of Subchapter 7.5 of Chapter 1  
5 of Division 3 of Title 17 of the California Code of Regulations  
6 because the testing and safety inspections of the equipment on the  
7 vessel that allows the use of electricity from the terminal have not  
8 validated the safety of the equipment shall be subject to this section  
9 if all of the following apply:

10 (1) The master of the vessel has made the necessary effort to  
11 complete testing and inspection.

12 (2) The master of the vessel has notified the state board.

13 (3) The master of the vessel properly recorded the discussion  
14 of the testing and validation of the onboard equipment, detailing  
15 any lack of compatibility that prevents the usage of shore power  
16 equipment. This discussion shall include the date when the testing  
17 and validation commenced, identification of when and description  
18 of any lack of compatibility or invalidation of equipment, and the  
19 dates and description of each effort to remedy the lack of  
20 compatibility or invalidation, including efforts to repair or modify.

21 (4) Any repairs or modifications necessary to complete the  
22 testing or safety inspection have been ordered or scheduled for  
23 completion at the earliest practicable time, provided those repairs  
24 or modifications are scheduled for completion no later than the  
25 next visit by the vessel to a berth properly equipped to provide  
26 shore power.

27 (f) This section does not preclude a vessel that suffers from  
28 equipment failure subsequent to the testing and validation of any  
29 equipment, as provided pursuant to this section, from exercising  
30 the optional operational requirements pursuant to Section  
31 93118.3(d)(1)(I)(3) of Subchapter 7.5 of Chapter 1 of Division 3  
32 of Title 17 of the California Code of Regulations, or from  
33 complying with the reporting and recordkeeping requirements  
34 pursuant to Section 93118.3(g)(1)(B)1g of Subchapter 7.5 of  
35 Chapter 1 of Division 3 of Title 17 of the California Code of  
36 Regulations.

37 ~~SECTION 1. Section 43013 of the Health and Safety Code is~~  
38 ~~amended to read:~~

39 ~~43013. (a) The state board shall adopt and implement motor~~  
40 ~~vehicle emission standards, in-use performance standards, and~~

1 motor vehicle fuel specifications for the control of air contaminants  
2 and sources of air pollution which the state board has found to be  
3 necessary, cost effective, and technologically feasible, to carry out  
4 the purposes of this division, unless preempted by federal law.

5 (b) ~~The state board shall, consistent with subdivision (a), adopt~~  
6 ~~standards and regulations for light-duty and heavy-duty motor~~  
7 ~~vehicles, medium-duty motor vehicles, as determined and specified~~  
8 ~~by the state board, portable fuel containers and spouts, and off-road~~  
9 ~~or nonvehicle engine categories, including, but not limited to,~~  
10 ~~off-highway motorcycles, off-highway vehicles, construction~~  
11 ~~equipment, farm equipment, utility engines, locomotives, and, to~~  
12 ~~the extent permitted by federal law, marine vessels.~~

13 (c) ~~Prior to adopting standards and regulations for farm~~  
14 ~~equipment, the state board shall hold a public hearing and find and~~  
15 ~~determine that the standards and regulations are necessary, cost~~  
16 ~~effective, and technologically feasible. The state board shall also~~  
17 ~~consider the technological effects of emission control standards~~  
18 ~~on the cost, fuel consumption, and performance characteristics of~~  
19 ~~mobile farm equipment.~~

20 (d) ~~Notwithstanding subdivision (b), the state board shall not~~  
21 ~~adopt any standard or regulation affecting locomotives until the~~  
22 ~~final study required under Section 5 of Chapter 1326 of the Statutes~~  
23 ~~of 1987 has been completed and submitted to the Governor and~~  
24 ~~Legislature.~~

25 (e) ~~Prior to adopting or amending any standard or regulation~~  
26 ~~relating to motor vehicle fuel specifications pursuant to this section,~~  
27 ~~the state board shall, after consultation with public or private~~  
28 ~~entities that would be significantly impacted as described in~~  
29 ~~paragraph (2) of subdivision (f), do both of the following:~~

30 (1) ~~Determine the cost-effectiveness of the adoption or~~  
31 ~~amendment of the standard or regulation. The cost-effectiveness~~  
32 ~~shall be compared on an incremental basis with other mobile source~~  
33 ~~control methods and options.~~

34 (2) ~~Based on a preponderance of scientific and engineering data~~  
35 ~~in the record, determine the technological feasibility of the adoption~~  
36 ~~or amendment of the standard or regulation. That determination~~  
37 ~~shall include, but is not limited to, the availability, effectiveness,~~  
38 ~~reliability, and safety expected of the proposed technology in an~~  
39 ~~application that is representative of the proposed use.~~

~~(f) Prior to adopting or amending any motor vehicle fuel specification pursuant to this section, the state board shall do both of the following:~~

~~(1) To the extent feasible, quantitatively document the significant impacts of the proposed standard or specification on affected segments of the state's economy. The economic analysis shall include, but need not be limited to, the significant impacts of any change on motor vehicle fuel efficiency, the existing motor vehicle fuel distribution system, the competitive position of the affected segment relative to border states, and the cost to consumers.~~

~~(2) Consult with public or private entities that would be significantly impacted to identify those investigative or preventive actions that may be necessary to ensure consumer acceptance, product availability, acceptable performance, and equipment reliability. The significantly impacted parties shall include, but need not be limited to, fuel manufacturers, fuel distributors, independent marketers, vehicle manufacturers, and fuel users.~~

~~(g) To the extent that there is any conflict between the information required to be prepared by the state board pursuant to subdivision (f) and information required to be prepared by the state board pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the requirements established under subdivision (f) shall prevail.~~

~~(h) It is the intent of the Legislature that the state board act as expeditiously as is feasible to reduce nitrogen oxide emissions from diesel vehicles, marine vessels, and other categories of vehicular and mobile sources that significantly contribute to air pollution problems.~~